

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

TENNESSEE VALLEY AUTHORITY

PLAINTIFF

V.

CAUSE NO.: 1:15CV202-SA-DAS

EAST MISSISSIPPI ELECTRIC POWER ASSOCIATION

DEFENDANT

ORDER ON MOTION TO DISMISS

Defendant East Mississippi Electric Power Association (EMEPA) seeks dismissal of the claims against it on the grounds that Tennessee Valley Authority (TVA) failed to properly execute service. In particular, EMEPA insists that TVA served a copy of the Summons and Complaint for this action on Patricia Stokes, an EMEPA employee at the Louisville branch of EMEPA.

Pursuant to Federal Rule of Civil Procedure 4(h), a corporation must be served

by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and – if the agent is one authorized by statute and the statute so requires – by also mailing a copy of each to the defendant.

FED. R. CIV. P. 4(h)(1)(B).

EMEPA asserts that Patricia Stokes is not a managing or general agent.

In addition to responding to the Motion to Dismiss, TVA also had process served on Randy Carroll and Wayne Henson, both Chief Operating Officers of EMEPA in Meridian. As TVA has now sufficiently complied with Federal Rule 4(h), there is no ground to dismiss the action. Accordingly, the Motion to Dismiss for Insufficiency of Process [3] is DENIED.

The parties are instructed to contact the magistrate judge's chambers within fourteen (14) days of the date of this Order to schedule a Case Management Conference.

SO ORDERED, this the 18th day of May, 2016.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE